

SENATE BILL No. 166

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.5-1.1-9; IC 6-3.5-6-17.

Synopsis: Distribution of local option income taxes. Provides for early distribution of revenue raised by an increase in the county adjusted gross income tax rate or the county option income tax rate to finance a county jail or certain other specified structures.

Effective: January 1, 2004 (retroactive).

Kenley

January 6, 2004, read first time and referred to Committee on Finance.

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Introduced

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

SENATE BILL No. 166

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-3.5-1.1-9, AS AMENDED BY P.L.267-2003,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2004 (RETROACTIVE)]: Sec. 9. (a) Revenue derived
4 from the imposition of the county adjusted gross income tax shall, in
5 the manner prescribed by this section, be distributed to the county that
6 imposed it. The amount to be distributed to a county during an ensuing
7 calendar year equals the amount of county adjusted gross income tax
8 revenue that the department, after reviewing the recommendation of the
9 budget agency, determines has been:
10 (1) received from that county for a taxable year ending before the
11 calendar year in which the determination is made; and
12 (2) reported on an annual return or amended return processed by
13 the department in the state fiscal year ending before July 1 of the
14 calendar year in which the determination is made;
15 as adjusted (as determined after review of the recommendation of the
16 budget agency) for refunds of county adjusted gross income tax made
17 in the state fiscal year.

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(b) Before August 2 of each calendar year, the department, after reviewing the recommendation of the budget agency, shall certify to the county auditor of each adopting county the amount determined under subsection (a) plus the amount of interest in the county's account that has accrued and has not been included in a certification made in a preceding year. The amount certified is the county's "certified distribution" for the immediately succeeding calendar year. The amount certified shall be adjusted under subsections (c), (d), (e), (f), and (g). The department shall provide with the certification an informative summary of the calculations used to determine the certified distribution.

(c) The department shall certify an amount less than the amount determined under subsection (b) if the department, after reviewing the recommendation of the budget agency, determines that the reduced distribution is necessary to offset overpayments made in a calendar year before the calendar year of the distribution. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any overpayments are offset over several years rather than in one (1) lump sum.

(d) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to correct for any clerical or mathematical errors made in any previous certification under this section. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any adjustment under this subsection is offset over several years rather than in one (1) lump sum.

(e) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide the county with the distribution required under section 10(b) of this chapter.

(f) This subsection applies to a county that initially imposes a tax under this chapter in the same calendar year in which the department makes a certification under this section. The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide for a distribution in the immediately following calendar year and in each calendar year thereafter. The department shall provide for a full transition to certification of distributions as provided in subsection (a)(1) through (a)(2) in the manner provided in subsection (c).

(g) The department, after reviewing the recommendation of the

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1 budget agency, shall adjust the certified distribution of a county to
 2 provide the county with the distribution required under section 3.3 of
 3 this chapter beginning not later than the tenth month after the month in
 4 which additional revenue from the tax authorized under section 3.3 of
 5 this chapter is initially collected.

6 **(h) The department, after reviewing the recommendation of the**
 7 **budget agency, shall adjust the certified distribution of a county to**
 8 **provide the county with the distribution required under section 2.8**
 9 **of this chapter beginning not later than the tenth month after the**
 10 **month in which additional revenue from the tax authorized under**
 11 **section 2.8 of this chapter is initially collected.**

12 SECTION 2. IC 6-3.5-6-17, AS AMENDED BY P.L.267-2003,
 13 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JANUARY 1, 2004 (RETROACTIVE)]: Sec. 17. (a) Revenue derived
 15 from the imposition of the county option income tax shall, in the
 16 manner prescribed by this section, be distributed to the county that
 17 imposed it. The amount that is to be distributed to a county during an
 18 ensuing calendar year equals the amount of county option income tax
 19 revenue that the department, after reviewing the recommendation of the
 20 budget agency, determines has been:

21 (1) received from that county for a taxable year ending in a
 22 calendar year preceding the calendar year in which the
 23 determination is made; and

24 (2) reported on an annual return or amended return processed by
 25 the department in the state fiscal year ending before July 1 of the
 26 calendar year in which the determination is made;

27 as adjusted (as determined after review of the recommendation of the
 28 budget agency) for refunds of county option income tax made in the
 29 state fiscal year.

30 (b) Before August 2 of each calendar year, the department, after
 31 reviewing the recommendation of the budget agency, shall certify to the
 32 county auditor of each adopting county the amount determined under
 33 subsection (a) plus the amount of interest in the county's account that
 34 has accrued and has not been included in a certification made in a
 35 preceding year. The amount certified is the county's "certified
 36 distribution" for the immediately succeeding calendar year. The amount
 37 certified shall be adjusted, as necessary, under subsections (c), (d), ~~and~~
 38 (e), **and (i)**. The department shall provide with the certification an
 39 informative summary of the calculations used to determine the certified
 40 distribution.

41 (c) The department shall certify an amount less than the amount
 42 determined under subsection (b) if the department, after reviewing the

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1 recommendation of the budget agency, determines that the reduced
 2 distribution is necessary to offset overpayments made in a calendar
 3 year before the calendar year of the distribution. The department, after
 4 reviewing the recommendation of the budget agency, may reduce the
 5 amount of the certified distribution over several calendar years so that
 6 any overpayments are offset over several years rather than in one (1)
 7 lump sum.

8 (d) The department, after reviewing the recommendation of the
 9 budget agency, shall adjust the certified distribution of a county to
 10 correct for any clerical or mathematical errors made in any previous
 11 certification under this section. The department, after reviewing the
 12 recommendation of the budget agency, may reduce the amount of the
 13 certified distribution over several calendar years so that any adjustment
 14 under this subsection is offset over several years rather than in one (1)
 15 lump sum.

16 (e) This subsection applies to a county that initially imposed a tax
 17 under this chapter in the same calendar year in which the department
 18 makes a certification under this section. The department, after
 19 reviewing the recommendation of the budget agency, shall adjust the
 20 certified distribution of a county to provide for a distribution in the
 21 immediately following calendar year and in each calendar year
 22 thereafter. The department shall provide for a full transition to
 23 certification of distributions as provided in subsection (a)(1) through
 24 (a)(2) in the manner provided in subsection (c).

25 (f) One-twelfth (1/12) of each adopting county's certified
 26 distribution for a calendar year shall be distributed from its account
 27 established under section 16 of this chapter to the appropriate county
 28 treasurer on the first day of each month of that calendar year.

29 (g) Upon receipt, each monthly payment of a county's certified
 30 distribution shall be allocated among, distributed to, and used by the
 31 civil taxing units of the county as provided in sections 18 and 19 of this
 32 chapter.

33 (h) All distributions from an account established under section 16
 34 of this chapter shall be made by warrants issued by the auditor of state
 35 to the treasurer of state ordering the appropriate payments.

36 **(i) This subsection applies to a county that increases the rate of**
 37 **a tax under this chapter in the same calendar year in which the**
 38 **department makes a certification under this section for the purpose**
 39 **of financing the construction, acquisition, improvement,**
 40 **renovation, and equipping of a county jail and related buildings**
 41 **and parking facilities. The department, after reviewing the**
 42 **recommendation of the budget agency, shall adjust the certified**

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1 distribution of the county to provide for a distribution in the
2 immediately following calendar year and in each calendar year
3 thereafter of the additional revenue resulting from the increased
4 tax rate. The department shall provide for a full transition to
5 certification of distributions as provided in subsection (a)(1)
6 through (a)(2) in the manner provided in subsection (c).

7 SECTION 3. [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]

8 If:

9 (1) a distribution of county adjusted gross income tax revenue
10 or county option income tax revenue is certified before the
11 effective date of this SECTION for distribution to a county in
12 2004; and

13 (2) the certified distribution of county adjusted gross income
14 tax revenue or county option income tax revenue is made to
15 a county in 2004 that does not include the adjusted amount
16 for which the county is eligible under IC 6-3.5-1.1-9(h) or
17 IC 6-3.5-6-17(i), both as amended by this act;

18 later distributions made to the county in 2004 shall be increased to
19 provide for a distribution of the adjusted amount provided in the
20 applicable provision of law.

21 SECTION 4. An emergency is declared for this act.

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